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Minutes of the Commission Meeting Held on May 1, 2008 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

Commissioners: (P = Present; A = Appointed; E = Elected)

P James Athearn (E – Edgartown)	P Ned Orleans (A – Tisbury)
P John Breckenridge (A – Oak Bluffs)	P Jim Powell (A – West Tisbury)
P Christina Brown (E – Edgartown)	P Doug Sederholm (E – Chilmark)
P Peter Cabana (A – Tisbury)	P Susan Shea (A – Aquinnah)
- Martin Crane (A – Governor Appointee)	P Linda Sibley (E – West Tisbury)
P Mimi Davisson (E – Oak Bluffs)	P Paul Strauss (County Comm. Rep.)
- Mark Morris (A – Edgartown)	P Richard Toole (E – Oak Bluffs)
P Chris Murphy (A – Chilmark)	- Andrew Woodruff (E – West Tisbury)
P Katherine Newman (A – Aquinnah)	

Staff: Mark London (Executive Director), Paul Foley (DRI Analyst/Planner), Bill Veno (Senior Planner), Christine Flynn (Affordable Housing Planner)

The meeting was called to order at 7:35 p.m.

1. SHIRLEY'S HARDWARE WALL: DRI NO. 380M – PUBLIC HEARING

Commissioners present: J. Athearn, J. Breckenridge, C. Brown, P. Cabana, M. Davisson, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, S. Shea, L. Sibley, P. Strauss, R. Toole.

Applicant: Jesse Steere, III.

Richard Toole opened the public hearing and read the hearing notice for a proposal to excavate the wall behind Shirley's Hardware and make space for 14 storage containers.

1.1 Staff Report

Paul Foley gave the staff report.

- The site is in the B2 Commercial District.
- The project was originally approved as a DRI in 1994.
- The hill behind the hardware store has been excavated and a large retaining wall has been created, built of concrete blocks about 20 feet high.
- The project was referred by the Tisbury Building Inspector.
- Issues include: the proliferation of large storage containers in the area; the continued compliance of past DRI decisions, and the large scale of the project.

- The applicant's intention is to create order for parking circulation and storage.
- Caleb Nicholson of Contemporary Landscapes and an abutter has been working with the applicant on a planting plan and erosion control.
- They are providing a landscaping plan for screening.
- No new lighting is proposed, just portable lights if they are needed.
- Electricity isn't necessary and noise shouldn't be an issue.
- The wall was constructed with two feet of gravel behind it and an engineer has stamped the plan. There were some concerns about drainage issues.
- He showed slides of the project.
- The containers are seven across and two high and are mainly for seasonal storage.
- Landscaping for screening above the wall will be tulip trees, viburnum, and winterberry, with a 4' pool fence along the wall tops.

Ned Orleans asked what will happen to the semi-trailer trucks that have been used for some time but are not on wheels. **Paul Foley** said that the semis would not be removed.

Commissioners asked for clarification that the parking area will be cleared.

1.2 Applicant's Presentation

Caleb Nicholson, direct abutter to Jesse Steere, and landscaper, explained the landscaping plan.

- The plan includes a drainage system, dealing with the 14-foot grade change between the two properties, and Using grasses for erosion control.
- Kent Healy did an engineering evaluation for the wall. He submitted a letter describing the existing drainage system and explanation of drainage, which was read into the record.
- The purpose of the landscape buffer is to establish a root base around the disturbed soil. Evergreens will be planted in front of the side trailers. Trees will be chosen for their root base.
- The front is well-landscaped.
- The containers can be seen from State Road though you really have to be looking.

Commissioners raised the question about whether the applicant is in compliance with the original conditions.

Peter Cabana asked whether there will be designated parking spaces in the back.

Ned Orleans was concerned about the trailers that have been overflow storage. The final project should look as close as it possibly can to the original approval, unless we can make a change.

Jesse Steere explained aspects of the project.

- They built a loading dock. All the trailers will be backed in, making all the designated parking spaces available. The parking spaces are now vacant a lot of the time, but it's nice to have extra. There's one 24' foot container, and a Shirley's truck. The three parking spaces on each side were for employee parking, so those aren't asphalted.

- The trailers are stacked two high. They will not be stacked higher. A big part of having the storage trailers is to have things stocked in the shoulder season, to lessen the confusion in the high season. Additionally, he keeps two high school kids employed.

Chris Murphy suggested that the Commission look only at the change in topography, and not address the question of containers, leaving it to Tisbury to decide how it deals with temporary storage.

Linda Sibley said that anything done on a property that was a DRI and that is substantially different than what was approved has to be reviewed. None of the towns have specific regulations on containers, but that doesn't mean they have to be approved by the MVC. One question is whether the containers meet the town's definition of a structure such as enclosing space. If it impacts the viewscape, it has regional impact.

Doug Sederholm favored dealing with the containers as part of the review. This is a business area and the containers are as far back as possible. They don't seem out of context and or part of the viewscape.

Jesse Steere, in response to an inquiry as to whether he applied for a building permit from the town, clarified the history.

- Ken Barwick said the applicant needed an engineer for the topographical alteration.
- The wall needed to be built because the mud kept sliding down.
- The retaining walls weren't on the original plan, but they did a lot of excavation for the parking lot.
- The applicant went to Vineyard Land Surveying right away.
- Ken Barwick supports the excavation and likes the containers and is just waiting for MVC approval.
- The zoning allows construction of a building 14 feet higher.

1.3 Public Comment

Ken Garde, a frequent customer, said he's impressed with how this came out. It's so non-descript, thought-out, and effective. He's surprised at some of the conversation about the project. Jesse Steere is trying to make things work more effectively and efficiently and open up parking. It's not something that has a visual effect. People haven't even noticed it. And they're impressed with how it looks. This is a well thought-out thing and it's something that should happen at a lot of places. It's functional and structural and clean.

Richard Toole closed this session of the public hearing, and continued the hearing until May 15th, at which time no oral testimony will be taken unless the Hearing Officer determines that there has been substantive new written testimony warranting additional discussion. The project will be reviewed at LUPC on May 19th. He asked staff to work with the applicant to clean up the list of offers.

2. DRI 613: DOUG HOEHN BUILDING: DRI 613 – PUBLIC HEARING

Commissioners present: J. Athearn, J. Breckenridge, C. Brown, P. Cabana, M. Davisson, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, S. Shea, L. Sibley, P. Strauss, R. Toole.

The application is to divide two commercial lots into three commercial lots. One two-story building will be built and the applicant will develop master plan guidelines for the remaining two lots.

1.1 Staff Report

Paul Foley gave the staff report.

- The proposed building is an office for the applicant's business. On the basement ground level there will be two small offices and an employee apartment.
- The project was referred by Ken Barwick, Tisbury Building Inspector.
- The site is in the Tashmoo Watershed, a nitrogen-sensitive watershed. We need some wastewater solution in that area; there have been about ten projects in that area in the last few years and they all have had some issues dealing with nitrogen loading.
- The site is visible from the cemetery.
- The applicant listed plants to be used in the bioretention swale.
- For energy conservation, the building will have Energy Star appliances and on demand tank-less hotwater. Thermostats will be on a timer. The building will be sited with southern exposure.
- Jim Miller did a traffic study.
 - The applicant will apply to the ZBA for a reduction in the required parking.
 - The site will be paved due to the slope of the property.
 - The applicant has deeded access to an entry but wants to use the commercial entrance.
 - Estimated trip generation is 65 with a peak hour of 11 trips. Trip generation for all three buildings is estimated to be 148 trips per day, resulting in a 1% increase in summer. This isn't a seasonal building.
 - Traffic will have minimal impact on the roadway.
 - Mitigation is to reconfigure two access points into one if he can get agreements from abutters.
- The applicant is providing affordable housing for an employee. Additionally he is starting a \$2,000 scholarship program at the high school for someone going into engineering or surveying.
- The applicant has 10 year-round employees.
- The project will be visible from State Road and the cemetery.
- The building will be built into the slope to minimize visual impact.
- He showed a series of slides of the site.

Bill Wilcox gave the water report.

- The total allocation for the site is 9.3 kgs per year. The loading for the three lots would be 21.7 kgs including stormwater. The proposal exceeds limit by 12.4 kgs with no treatment on site.
- The Applicant has proposed two alternatives to address the nitrogen excess.
 - Funding the installation of MicroFast systems for four affordable housing units off Lambert's Cove Road elsewhere in the watershed.
 - Installing de-nitrification units for the three buildings proposed in this project, producing a load that is 3.2 kilograms over the target nitrogen limit for the property. When system replacement is required for the abutting DeBettencourt property the Applicant will add de-nitrification to the wastewater system on that lot; while its current wastewater flow is very low (total water use in 2005 was 27,000 gallons), when the property is transferred this is likely to increase dramatically resulting in sufficient nitrogen reduction to offset the project overage. Upgrading the front Debettencourt house would be triggered by a sale.
- These are two effective options. There may be other ones. We should leave flexibility in wording for the applicant to come back. He should be able to tie into Town wastewater after the useful life of the de-nitrification system, if such a system exists.
- The Applicant will divert stormwater into vegetative swale.
- There is a sub watershed for Upper Tashmoo Pond, a fresh water pond. The pond is well-mixed so impact on either side would have the same impact. It is a legitimate proposal for mitigation.

Chris Murphy said that Tisbury Board of Health may not approve advanced wastewater treatment for another project.

2.2 Applicants' Presentation

Doug Hoehn presented the project.

- He and Lauren Hoehn are the applicants. The project is in their names and Schofield, Barbini and Hoehn will be renting from them.
- Paul Foley and Bill Wilcox have explained most of the proposal.
- The property is 1.1 acres, with two lots currently owned by Ray Debettencourt. He's been trying to buy the lots for years. There are two lots out front, with three buildings. There is a four-bedroom house, and a two bedroom cottage. The property is B-2. He did not want to buy all the land but had to so he has more land than he needs.
- He designed what they thought they would need. His building will fit in the top part of the site. He'll split the rest in two, making sure there are good sites. There's a lot of topography but they will work out well for smaller buildings.
- Ray Debettencourt's property was the subject of a proposal that got voted down by the Town to place the fire station and emergency management building on this site.
- They will be using an electric heat pump for heating and air conditioning, and there will be some offset with solar use.
- They'll use electricity and not much hot water.
- He intends to rent to compatible users for the small space down below. There will be a one bedroom apartment.

- There's not a lot of traffic impact.
 - He is proposing an alternate access. Debettencout Way is the access set up in 1972.
 - He is purchasing the right of way has the right to use it. Surveyor's Lane is where they actually access the property.
 - He would rather not give up his entrance. When the current owner had the stumps pulled out about five years ago he cleared out the driveway area. It's perfectly fine.
 - To use the alternate access he has to get approval from parties of interest. He feels it will spare multiple curb cuts. He can't make a firm offer at this time.
 - The traffic plan assumes the same uses for other buildings, office with apartment.
 - For parking, Tisbury requires one space for every 150 sq. ft. of office space. The applicant is applying for 33% reduction from 26 spaces to 17 with 3 handicapped spaces. They are providing 20 spaces. In the space they occupy now they have 4700 square feet with 22 spaces, and it's never filled up. Edgartown is 1 for every 400 square feet. 20 spots should work from his experience.
 - He would be willing to grant a dormant easement at the back of the lot. It's unlikely that a secondary road would ever go through because cemetery land is so precious.
- For affordable housing they're putting in a staff apartment. He is also offering a Scholarship at the high school which he feels does have an affordable housing component. He'd rather put money into a fund for Island students in professions that pay enough that might help students afford market rate housing.
- For landscaping, Caleb Nicholson provided a plant list to divert runoff into areas where there is vegetation. They will bring a landscaping and lighting plan back to LUPC.
- With respect to the Water Quality policy, he understands the policy and came up with a few different options. He doesn't like the Lamberts Cove option in terms of how would work for them because it's an off-site improvement that he can't control. In the four buildings it would cost \$30,000. He would much rather do the second option. It can be completed as part of the building costs. The numbers work with the second option better. He's proposing denitrification for all three of the lots plus DeBettencourts when it's ready. He'll get full credit for the development of the lot.
- Based on the capacity of the pond and the size of the watershed, the real dilemma in this area is regarding wastewater management. This is one of the case study areas for the Island Plan study. The Island Plan committee may propose centralized sewerage. This whole situation might be changing over the next couple of years. The idea of putting in a denitrification system somewhere else came out of the discussion that in five years this area might be sewerage. People are being encouraged to denitrify outside the area.
- He calculated the effect of the bioretention swales, based on 20 parking spaces.

Mark London said both wastewater mitigation plans would probably work. If reasonable minds prevail, State Road may receive town water/sewer in the near future. Lambert's Cove will probably never be sewerage so it makes more sense to install denitrification systems in that area.

Jim Athearn asked about screening for cemetery. It might be prudent for the applicant to put a berm in on the cemetery line. The applicant offered to talk with Fred LaPiana and the cemetery committee and do what they recommend.

The project will be reviewed at LUPC on May 19th.

3. MARTHA'S VINEYARD AGRICULTURAL SOCIETY: DRI 347M – POSSIBLE MODIFICATION

Commissioners present: J. Breckenridge, C. Brown, P. Cabana, M. Davisson, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, S. Shea, L. Sibley, P. Strauss, R. Toole.

Paul Foley gave the staff report.

- The Ag Society wants to build a new 4,492 sq. ft. animal barn. It will be a smaller version of the existing one. It would be post and beam built by Amish building in the style of the existing building without the entry protruding.
- The Commissioners need to address is whether this modification is sufficiently substantial as to require a public hearing.
- Normally, when the Commission looks at a proposed modification, it looks at whether everything is in compliance with the original decision. In this case, there are a few items that are not in conformity.
 - The parking on Panhandle Road was not part of the original plan.
 - A row of trees shown on the plan was not planted.
 - The event parking is somewhat different from the original approval.
 - There is a vegetated area along the State Road shown on the plan. The Conservation Commission interprets this as requiring this to be a no-cut zone. A couple of years ago, the Ag Society cleared out some underbrush there; subsequently, the Ag Society sent a letter to the Commission saying they would let it grow back. The Commission might want to clarify what was intended, and is there any reason to have a no-cut zone screening what is a field for most of the year?
 - There are a few other items we should get up to date.
- LUPC recommended 3 to 1 that it should go to a public hearing to deal with all of the issues.

Dale McClure, President of the Ag Society, said the original project was a real community effort.

- Michael Van Valkenburgh, the landscape architect, drew the plan. The things that were not done were for the better. A double row of apple trees would have been a mess. They raised a lot of money and did a lot of things. The driveway and row of trees weren't finished. They used Island knowledge and effort. Everybody's pretty happy with it. The drawing shows the fairgrounds in its ability to have a fair. The fair is still a two week event, including setting up and tearing down. One change they've made is to bring the carnival area back off State Road.
- The Ag Society needs more space for animals and horse shows. The barn is designed to match the existing barn. It will be hard to see from the road.

- We have a sixteen member board that votes on everything. When this project went through, membership went up to 1100, it's now at 700. It's a community thing. There are a lot of restrictions under conservation restrictions. The site is not in commercial zoning; its agriculture residential zoning.
- He wasn't aware of the no-cut zone. He asked whether they can thin out the no-cut zone because a lot of people would like to see the field from the road.

Bill Haynes, Trustee and Chair of building committee, said that there are two uses for the building. Horse and animal shows and storage for antique farm equipment so we can preserve it. The barn is 97 feet long and is located where the manure pile and horse trailers used to be. There will be a committee to decide what we want.

Chris Murphy said that LUPC recommended that they go to public hearing because it is a very public place and this is a major change. The public should have a chance to comment on it. It doesn't have to be long and complicated.

Chris Murphy moved and it was duly seconded that this proposal is a sufficiently substantial change to require a public hearing.

- **Linda Sibley** felt that it is not a substantial change. It doesn't change the use; it is a huge property, and the proposed barn is a small, attractive structure. The Commission wouldn't gain any additional information through the process.
- **Richard Toole** agreed saying it a wonderful addition to an agricultural property. The design will be safer and the development that will enhance the property and organization.
- **Chris Murphy** said the Commission has an obligation to the neighbors. Look at the greenbelt that appears on the right side of the plan, the only greenery left on the ground is on the state right of way. It's not a major change, but if you were a neighbor across the road, you'd be aware. The Commission has an obligation to everyone concerned that it be done right. Holding a public hearing makes sure it gets done.
- **Mimi Davisson** said it's an opportunity for abutters to speak. We need to be consistent. She read the LUPC report and felt that the barn project was not sufficiently major to require a public hearing. The fact that a no-cut zone has been cut has changed her mind. The no-cut intrusion should require a public hearing.
- **Paul Foley** said it isn't specifically a no-cut zone. There is no wording in the Decision or on the plan that designates it a no-cut zone. There is a darker green area on the plan that implies heavier vegetation or a hedge. The term "no-cut zone" is a more recent term that the MVC often uses and imposes, but was not specifically used in this case.
- **Doug McClure** said that West Tisbury addressed the issue of the cutting. Prudy Burt came to the Ag Society with concerns. They were getting rid of poison ivy and giving a view to an attractive piece of property. It is twenty acres of pretty attractive land.
- **Doug Sederholm** said there's a question of what should be done in the future. Generally the Commission doesn't approve a modification if the rest of the project isn't in compliance.

Voice vote on the motion is to hold a public hearing. In favor: 8. Opposed: 5. Abstentions: 0.

4. VINEYARD GOLF HOUSING

Christina Brown abstained and left the room.

Commissioners present: J. Breckenridge, P. Cabana, M. Davisson, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, S. Shea, L. Sibley, P. Strauss, R. Toole.

Richard Toole closed the public hearing. He noted that the number \$100,000 was clarified in the offers.

5. BRIDGE HOUSING EXTENSION OF APPROVAL

Commissioners present: J. Breckenridge, C. Brown, P. Cabana, M. Davisson, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, S. Shea, L. Sibley, P. Strauss, R. Toole.

The Bridge Housing applicant has requested an extension of the approval for two years. Natural Heritage has indicated that it doesn't want any net loss of pitch pine, and doesn't want white pine. Where there's a chance to plant pitch pine, they will, and there will be no planting of white pine.

Linda Sibley moved to grant a two-year extension of the Bridge Housing DRI approval. In favor: 13. Opposed: 0. Abstentions: 0. The motion passed.

The meeting adjourned at 10:40 p.m.

Chris Murphy

Chairman

2/5/09
Date

N. Orleans

Clerk-Treasurer

2/5/09
Date